

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

LEONARD JOHNSON,

Plaintiff,

VS.

TARRANT COUNTY JAIL, ET AL.,

Defendants.

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NO. 4:14-CV-272-A

O R D E R

Plaintiff, Leonard Johnson, filed the instant complaint pursuant to 42 U.S.C. § 1983 while he was incarcerated in the Tarrant County Jail, naming as defendants Tarrant County Jail and Tarrant County Sheriff's Office, Medical General. Plaintiff neither paid the filing fee nor sought leave to proceed in forma pauperis. The United States Magistrate Judge considered plaintiff's eligibility for in forma pauperis status, and determined that plaintiff has had three previous cases dismissed as frivolous. Consequently, plaintiff is barred from proceeding under 28 U.S.C. § 1915 absent certain exceptional circumstances not present here.

The magistrate judge recommended that plaintiff not be allowed to proceed in forma pauperis in this action, and also recommended that plaintiff be required to pay the full filing and administrative fees of \$400.00 within seven days after this court made any final determinations concerning plaintiff's in forma

pauperis status. The magistrate judge further recommended the undersigned advise plaintiff that failure to pay the filing fee could result in the dismissal of this action without further notice for want of prosecution pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.¹ The magistrate judge ordered that plaintiff file any objections by May 14, 2014. As of the date this order is signed, plaintiff has filed nothing in response to the magistrate judge's order.

The court notes that the Findings, Conclusions and Recommendation of the United States Magistrate Judge and Notice and Order was mailed to plaintiff at Tarrant County Jail, but was returned as undeliverable. Plaintiff has not provided the court with an updated address and efforts to locate plaintiff in any Texas Department of Criminal Justice or Federal Bureau of Prisons institution have been unavailing. However, the court can see no reason why the magistrate judges's recommendations should not be accepted. Plaintiff has previously had three frivolous actions dismissed, and plaintiff has made no showing that he is under imminent danger of serious physical injury.

¹Rule 41(b) contemplates that a dismissal under it will be on motion of a defendant. However, the court has inherent authority to dismiss, sua sponte, an action for want of prosecution. See Link v. Wabash R.R. Co., 370 U.S. 626, 630 (1962); Jones v. Caddo Parish Sch. Bd., 704 F.2d 206, 214 (5th Cir. 1983).

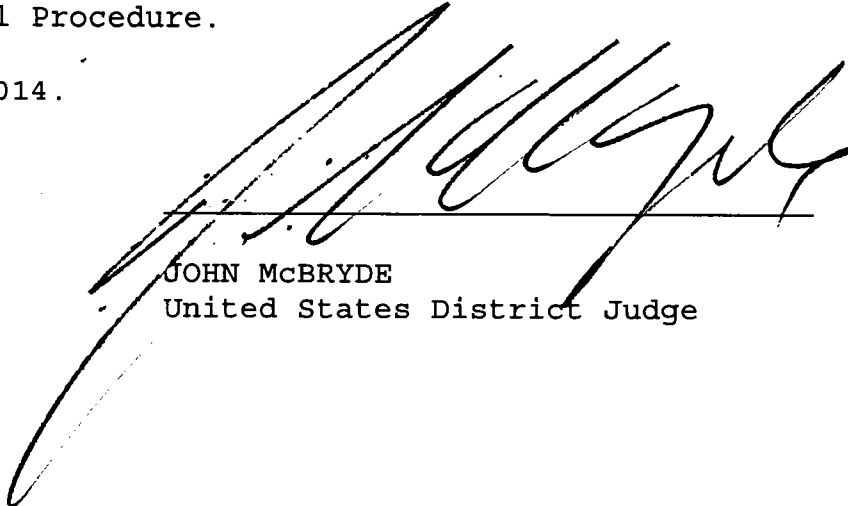
Therefore,

The court accepts the recommendations of the United States Magistrate Judge and ORDERS that plaintiff be, and is hereby, denied the right to proceed in forma pauperis in this action.

The court further ORDERS that by 4:00 p.m. on May 29, 2014, plaintiff pay to the Clerk of the court the full filing and administrative fees of \$400.00.

The court further ORDERS that failure of plaintiff to comply with the terms of this order may result in the dismissal of this action without further notice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure.

SIGNED May 22, 2014.



JOHN McBRYDE
United States District Judge